



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON DC 20370-5100

SMC

Docket No: 07818-99

8 June 2000

MM1 [REDACTED] USN
[REDACTED]
[REDACTED]

Dear Petty Officer [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of title 10 of the United States Code, section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 8 June 2000. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies. In addition, the Board considered the advisory opinion furnished by the Navy Personnel Command dated 7 April 2000, and your letter dated 26 May 2000 with enclosures.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice. In this connection, the Board substantially concurred with the comments contained in the advisory opinion. The Board found no inconsistency between the marks and comments of the contested evaluations. They were unable to find you did not receive feedback consistent with the marks you received, which were not adverse. In view of the above, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official

records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER
Executive Director

Enclosure

7218-99



DEPARTMENT OF THE NAVY
NAVY PERSONNEL COMMAND
5720 INTEGRITY DRIVE
MILLINGTON TN 38055-0000

1610
PERS-311
7 April 2000

MEMORANDUM FOR THE EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF
NAVAL RECORDS

Via: PERS/BCNR Coordinator (PERS-00ZCB)

Subj: [REDACTED]

Ref: (a) BUPERSINST 1610.10 EVAL Manual

Encl: (1) BCNR File

1. Enclosure (1) is returned. The member requests the review of his performance trait marks and promotion recommendation for the performance evaluation for the period 15 November 1996 to 15 November 1997 and 16 November 1997 to 15 November 1998.

2. Based on our review of the material provided, we find the following:

a. A review of the member's headquarters record revealed the report for the period 15 November 1996 to 15 November 1997 to be on file. It is signed by the member acknowledging the contents of the report and right to submit a statement. The member indicated his desire to submit a statement and it is properly reflected in his record. The performance evaluation for the period 16 November 1997 to 15 November 1998 is not on file. The report was received, however, the report was rejected due to error in the summary block. The member provided a copy with his petition, which we base our opinion for the report. The member signed the report acknowledging the contents of the report and his right to submit a statement. The member indicated he did desire to submit a statement, but the member's statement and reporting senior's endorsement have not been received by PERS-311. The member has two years from the ending date of the report to submit a statement.

b. The performance evaluation for the period 15 November 1996 to 15 November 1997 is a Periodic/Regular report. The member refers to the report as being an adverse report. There is nothing in the report to make it an adverse report. The report is a valid report.

c. The performance evaluation for the period 16 November 1997 to 15 November 1998 is a Periodic/Regular report. The member refers to the report as being an adverse report. There is nothing in the report to make it an adverse report. This report is also a valid report.

d. The member alleges the marks and promotion recommendation are contrary to the duties, responsibilities, and accomplishments and did not reflect his performance since reporting.

Evaluation of a member's performance and making recommendations concerning promotion and assignments is the responsibility of the reporting senior. In reviewing petitions that question the exercise of the evaluation responsibilities, we must determine if the reporting senior abused his/her discretionary authority. We must determine if there is any rational basis to support the reporting senior's decision, and whether the reporting senior's action were the result of improper motive. Therefore, for us to recommend relief, the petitioner has to demonstrate that the reporting senior did not properly exercise his/her authority and the petitioner must show that there is no rational support for the reporting senior's actions or that the reporting senior acted for an illegal or improper purpose. The petitioner must do more than just assert the improper exercise of discretion, he must provide reasonable evidence to support the claim. I do not believe Petty Officer Arrington has done so. The member has provided nothing other than his own assertion.

e. The reporting senior is the judge of the performance of subordinates. While the member may disagree with the reporting senior's evaluation, it all comes down to the requirement that the reporting senior must make a judgment and rank the entire summary group. In both performance evaluations the reporting senior assigned the member a promotion recommendation of "Promotable". Such a ranking does not indicate a failing on the member's part, but rather the reporting senior gave greater value to the contribution to the other member's in the summary group. There was a total of 57 and 55 in the summary groups.

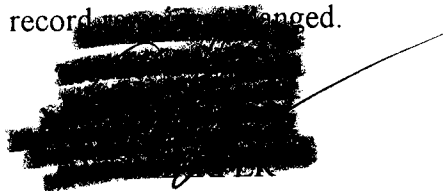
f. Reference (a), Annex S, Paragraph S-3 states: " A member has the right to submit evaluation report inputs, and has the duty to do so if requested by the rater or reporting senior". The member indicated he submitted his evaluation inputs, however, in whatever manner the performance evaluation is developed represents the judgment and appraisal authority of the reporting senior.

g. A performance evaluation does not have to be consistent with previous or subsequent reports. Each evaluation represents the judgment of the reporting senior during a particular period.

h. The fact the member perceives the performance evaluation to be career-damaging is not sufficient reason for its removal.

i. The member does not prove the report to be unjust or in error.

3. We recommend the member's record be unchanged.

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Head, Performance
Evaluation Branch